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**REMARKS**

Applicant amends claim 85 to make it dependent on claim 82 and not claim 83 in order to correct a typographical error. This amendment also cancels claims 98 and 99 without prejudice or disclaimer and adds new claims 100 and 101 which further describe the composition as comprising an oil. Page 26 of the application, second full paragraph supports this amendment by indicating mixtures of two of the materials previously described in the application such as "silicone" and "oil" can be employed. Claims 100-101 also describe the composition as "water blocking," which the application supports at page 39, last four lines that describes the composition of the invention as acting as a moisture scavenger to protect certain parts and the like from the affects of water or water migration. Claim 102 defines the dispersion as containing "about 0.2 to about 75 weight percent superabsorbent polymer based on said silicone, oil and superabsorbent polymer" which the sentence bridging pages 30 and 31 supports.

**REQUEST BY APPLICANT FOR INTERFERENCE WITH PATENT PURSUANT TO**

**37 C.F.R § 1.607**

Applicant seeks to have an interference declared between this application and unexpired United States Patent 6,586,094 B1 issued July 1, 2003. The patent was originally filed as provisional application No. 80/109,719 on November 24, 1998, and then as non-provisional application No. 09/443,695 on November 19, 1999. The present application is based on

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previously filed applications Serial Nos. 08/487,436, filed June 7, 1995; 08/583,587, filed January 5, 1996; and 08/943,123, filed October 3, 1997. Applicant relies on all of these applications to establish an earlier filing date than the patentee.

Applicant proposes the following counts for the interference:

Proposed Interference Counts

**Count 1.** A substrate coated with a water blocking material that includes an essentially water-free composition, wherein said composition comprises a superabsorbent polymer in combination with a silicone and an oil, said composition comprising a dispersion of said superabsorbent polymer and said silicone and oil, wherein the particle size of said superabsorbent polymer comprises from about less than 5 microns to about 300 microns.

**Count 2.** The substrate of count 1 wherein said superabsorbent polymer comprises a neutralized or cross-linked superabsorbent polymer based on acrylic acid, acrylamide, or an acrylate.

**Count 3.** The substrate of count 1 wherein said silicone comprises a siloxane, a low molecular weight silicone polymer, or diorgano silicon oxide.

**Count 4.** A method of coating a substrate with a water blocking material comprising the steps of providing a substrate and applying to said substrate an essentially water-free

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composition, wherein said composition comprises a superabsorbent polymer in combination with a silicone and an oil, said composition comprising a dispersion of said superabsorbent polymer and said silicone and oil, wherein the particle size of said superabsorbent polymer comprises from about less than 5 microns to about 300 microns.

Count 5. The method of count 4 comprising a dispersion which includes about 0.2 to about 75 weight percent superabsorbent polymer

Identification of the Claims in the patent that correspond to the Proposed Counts

The following claims of the patent correspond to the proposed counts:

<u>Proposed Count</u>	<u>Corresponding Claim in U.S. 6,586,094</u>
1.	1.
2.	3.
3.	7.
4.	16.
5.	17.

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Identification of Claims in the Application that Correspond to the Proposed Counts

<u>Proposed Count</u>	<u>Corresponding Claim in Serial No. 09/779,559</u>
1.	Multiple Dependent claim 100 dependent <u>inter alia</u> on claim 94 which in turn depends on claim 82.
2.	Multiple Dependent claim 100 dependent <u>inter alia</u> on claim 85 which in turn depends on claim 82.
3.	Multiple Dependent claim 100 dependent <u>inter alia</u> on claim 94 which in turn depends on claim 82.
4.	Multiple dependent claim 101 dependent <u>inter alia</u> on claim 95 which in turn depends on claim 88.
5.	Claim 102 dependent on multiple dependent claim 101 which in turn depends <u>inter alia</u> on claim 95, dependent on claim 88.

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Correspondence Between the Proposed Counts, Application Serial No. 09/779,559 and  
U.S. 6, 586,094

Applicant has presented proposed counts for an interference with U.S. 6, 586,094 "broader in scope than all claims which correspond to the . . . [counts]" which makes the counts "phantom counts" (37 C.F.R. § 1. 601 (f)), i. e., the claims of the application and the patent do not correspond exactly to the proposed counts, and the following explains why each of the claims corresponds to the proposed counts as required by 37 C.F.R. 1.607 (a) (4).

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Inter-dependent claims 100, 94, and 82 contain the subgeneric elements that correspond to generic count 1. The elements of count 1 include inter alia an essentially water free composition which is also water blocking comprising a dispersion of a superabsorbent polymer, silicone, and oil coated on a substrate where the particle size of the superabsorbent polymer ranges from about less than about 0.5 microns to about 300 microns. Claim 82 as presented on April 8, 2004 included the essentially water free composition, superabsorbent polymer, dispersion and silicone elements of the count coated on a substrate, whereas claim 100, as pointed out previously in this amendment now describes the composition as water blocking and containing an oil as well as a silicone material, which the application supports at page 39, last four lines as to the water blocking properties, and page 26, second full paragraph regarding silicone mixed with an oil. Claim 94, also presented on April 8, 2004 describes the particle size of the superabsorbent polymer as now set out in count 1.

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Applicant's claim 84 supports count 2, whereas claim 84 supports count 3. Multiple dependent claim 101, inter-dependent inter alia on claim 101, 95 and 88 support method count 4 relating to coating a substrate. Count 5 describes the amount of superabsorbent polymer used in the method of count 4. Applicant has previously discussed support for these parameters and the count parameters relating to particle size and providing a water blocking composition, and will not repeat that discussion.

U.S. 6,586,094

Count 1, generic to claim 1 of U.S. 6,586,094, although not specifically including the amount of coating on the substrate, or defining the substrate specifically as a fiber, or the surface tension or the viscosity, broadly includes these limitations in claim 1 of U.S. 6,586,094, by the terminology "substrate," "silicone," and "oil," and by use of the transition verbs "comprises" and "comprising." The patentee acknowledges in claim 7 that he considers the "silicones" of count 1 as "superwetting agents," the terminology used to describe them in claim 1 of the patent. The particle size of the superabsorbent polymer of count 1 encompasses the claim 1 particle size.

Count 2 is generic to and broadly covers the patent's claim 3 species of superabsorbent polymers with the generic definition "neutralized or cross-linked superabsorbent polymers based on acrylic acid, acrylamide or an acrylate" and the transition verb "comprises."

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Count 3 is generic to and broadly covers the patent's claim 7 species of silicones with the generic definition "a siloxane, a low molecular weight silicone polymer, or diorgano silicone oxide" and the transition verb "comprises."

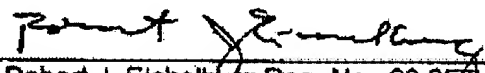
Count 4 is generic to and broadly covers the patent's claim 16 method in the same way that count 1 relates to patent claim 1, with the difference that count 4 comprises a method for coating a substrate, as opposed to the coated substrate per se. Count 5 relates to patent claim 17 and is broader than the percentage of superabsorbent polymer set out in the claim, and therefore dominates the claim.

#### **CONCLUSIONS**

Applicant respectfully requests entry and consideration of the foregoing amendments and remarks, and that the examiner declare an Interference between the present application and United States Patent No. 6,586,084.

Respectfully submitted,

THE LAW OFFICES OF ROBERT J. EICHELBURG

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Dated: June 30, 2004